

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUL 29 1999

IN RE:

KEVIN D. DAVIS

SS#: 446-76-9974

MONICA M. DAVIS

SS#: 566-37-3133

Debtors.

STEVEN W. SOULÉ, TRUSTEE  
FOR THE ESTATE OF KEVIN  
D. AND MONICA M. DAVIS,

Plaintiff,

v.

SHAWNEE CAR PAINTS, INC.,  
an Oklahoma Corporation,

Defendant.

Case No. 97-05139-M  
(Chapter 7)

TIMOTHY R. WALBRIDGE, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF OKLAHOMA

Adv. No. 99-0116-M

**JOURNAL ENTRY OF JUDGMENT**

**THIS MATTER** comes before the Court on the Motion for Default Judgment (the "Motion") filed herein by Steven W. Soulé, the duly appointed and authorized Chapter 7 trustee (the "Trustee") for the bankruptcy estate of Debtors Kevin D. and Monica M. Davis (the "Debtors"). The Court, having reviewed the pleadings on file herein, and having heard statements of counsel, makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. This Court has jurisdiction over the subject matter hereof and the parties hereto. Venue of this action properly lies in this District.

2. A Complaint was filed by the Trustee against Defendant Shawnee Car Paints, Inc. (the "Defendant") on June 4, 1999, in which the Trustee sought, on behalf of the Debtors' bankruptcy estate, to avoid a judgment lien (the "Lien") filed by Defendant and to recover a payment of \$8,205.12 (the "Payment") made by the Debtors pursuant to such Lien.

3. On June 4, 1999, the Trustee served the Defendant with Summons and a copy of the Complaint, and on June 8, 1999, the Trustee returned such Summons for filing with this Court.

4. To date, the Defendant has not filed an answer or otherwise plead to the Complaint, and, therefore, pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(a), the Defendant is in default.

5. Each of the material allegations set forth in the Trustee's Complaint is deemed admitted by the Defendant.

6. The Trustee is entitled to judgment by default pursuant to Fed. R. Bankr. P. 7055 and Fed. R. Civ. P. 55(b)(1) against the Defendant.

#### **CONCLUSIONS OF LAW**

7. The Trustee is entitled to judgment pursuant to 11 U.S.C. § 547(b): (a) avoiding the Defendant's Lien as a preferential transfer; (b) avoiding the Debtors' Payment to the Defendant as a preferential transfer; and (c) ordering the Defendant to pay \$8,205.12 to the Trustee pursuant to 11 U.S.C. § 550.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that the Defendant's Lien is hereby avoided as preferential transfer in accordance with 11 U.S.C. § 547(b); the Debtors' Payment to Defendant is also hereby avoided as a preferential transfer in accordance with 11 U.S.C.

§ 547(b); and pursuant to 11 U.S.C. § 550, the Trustee shall have judgment against the Defendant in the sum of \$8,205.12.

Dated this 29<sup>th</sup> day of July, 1999.



Kenneth Z. The  
UNITED STATES BANKRUPTCY JUDGE

**HALL, ESTILL, HARDWICK, GABLE,  
GOLDEN & NELSON, P.C.**

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